

Docket No.: 320528617US1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Lin et al.

Confirmation No. 6295

Application No.: 10/824,440

Art Unit: 2419

Filed: April 15, 2004

Examiner: K. Lin

For: CONTROLLING METHOD AND DEVICE
FOR DATA TRANSMISSION

APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION
UNDER 37 C.F.R. § 1.705(D)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant requests reconsideration of the patent term adjustment indicated in the Issue Notification of March 4, 2009.

(1) Applicant is including the fee set forth in 37 C.F.R. § 1.18(e). Please charge any deficiencies or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 320528617US1 from which the undersigned is authorized to draw.

(2) Statement of Facts

(i) Correct Patent Term Adjustment and Bases for Adjustment

The correct patent term adjustment is 1084 days. The PTO's calculated patent term adjustment is 734 days. Applicant is entitled to an additional 350 days of patent term adjustment.

The PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(A), referred to as the "A delay." The A delay is 820 days.

The PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(B), referred to as the "B delay." The B delay is 501 days.

The PTO failed to properly account for the overlap under 35 U.S.C. § 154(b)(2)(A) in the A delay and the B delay. The overlap is 151 days.

The PTO properly accounted for the reduction in patent term adjustment under 35 U.S.C. § 154(b)(2)(C). The reduction is 86 days.

The correct patent term adjustment is the sum of the A delay and the B delay minus the overlap and minus the reduction. Thus, the correct patent term adjustment is $820+501-151-86$, which is 1084 days.

(ii) Relevant Dates

A Delay		
Filing Date + 14 Months	06/15/2005	↓
First Office Action	09/13/2007	820
Total		820

B Delay		
Filing Date + 3 Years	04/15/2007	↓
Request for Continued Examination	08/28/2008	501
Total		501

Overlap		
36-Month Date	04/15/2007	↓
First Office Action	09/13/2007	151
Total		151

Reduction		
Office Action	09/13/2007	↓
Reply	01/07/2008	25
Office Action	03/28/2008	↓
Reply	08/28/2008	61
Total		86

(iii) Terminal Disclaimer

The patent is not subject to a terminal disclaimer.

(iv) Failure to Engage in Reasonable Efforts

Applicant is not contesting the reduction in patent term adjustment of 0 days as accounted for by the PTO that are "deemed" to be a failure to engage in reasonable efforts under 37 C.F.R. § 1.704. There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the application under 37 C.F.R. § 1.704.

Dated: March 20, 2009

Respectfully submitted,

By 

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